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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application No.	09/880,403
		Filing Date	June 13, 2001
		First Named Inventor	David A. Bottom
		Art Unit	2111
		Examiner Name	Dang, Khanh Nmn
Total Number of Pages in This Submission	20	Attorney Docket Number	42390P11670

ENCLOSURES (check all that apply)		
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Complete if Known

Application Number	09/880,403
Filing Date	June 13, 2001
First Named Inventor	David A. Bottom
Examiner Name	Dang, Khanh Nmn
Art Unit	2111
Attorney Docket No.	42390P11670

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$)
500.00

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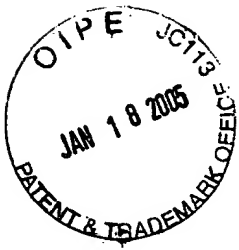
FEE CALCULATION

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	500.00
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1809	790	1809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
SUBTOTAL (2)					(500.00)

SUBMITTED BY

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Signature		Date	01/14/05		



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Patent Application of:)
David A. Bottom) Date: January 13, 2005
)
Serial No.: 09/880,403) Art Unit: 2111
Filed: June 13, 2001)
) Examiner: Dang, Khanh
For: A Modular Server Architecture)

HONORABLE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE,
Washington, D.C. 20231

APPEAL BRIEF
IN SUPPORT OF APPELLANT'S APPEAL
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Sir:

Applicant (hereafter "Appellant") hereby submits this Brief in triplicate in support of their Appeal from a final decision by the Examiner in the above-captioned case. Appellant respectfully requests consideration of this Appeal by the Board of Patent Appeals and Interferences for allowance of the claims in the above-captioned patent application.

An oral hearing is not desired.

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I. REAL PARTY IN INTEREST

The invention is assigned to Intel Corporation of 2200 Mission College Boulevard, Santa Clara, California 95052.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision.

III. STATUS OF THE CLAIMS

Claims 1-5 and 7-32 are currently pending in the above-referenced patent application and are the subject of this appeal. Claims 1-5 and 7-29 were rejected in the Final Office Action mailed on August 13, 2004. The Examiner confirmed the final rejection of claims 1-5 and 7-29 in an Advisory Action mailed on October 28, 2004.

Claims 30-32 were added by Appellant in an amendment and response filed on May 14, 2004. Examiner in the Final Office Action and the Advisory Action did not acknowledge claims 30-32. However, the claims are part of the record and can be found in Appellant's amendment mailed on May 14, 2004. It appears a page of the amendment containing claims 30-32 was not included in the "claims" section of the file wrapper when the amendment was entered into Appellant's file wrapper.

Claims 1-4, 7-13, 15-20 and 22-29 stand rejected under 35 U.S.C. § 102(e) over U.S. patent 6,452,809 by Jackson et al. Claims 5, 14 and 21 stand rejected under 35 U.S.C. § 103(a) over U.S. patent 6,452,809 by Jackson et al. in view of the CompactPCI or cPCI board/form factor.

Claims 30-32, as mentioned above, were not properly acknowledged by the Examiner and hence not rejected. Appellant assumes that if claims 30-32 were properly acknowledged they may have been rejected under 35 U.S.C. § 102(e) over U.S. patent 6,452,809 based on the same grounds as provided for claims 1-4, 7-13, 15-20 and 22-29.

IV. STATUS OF AMENDMENTS

To the best of Appellant's knowledge, no amendments have been filed subsequent to the Final Rejection.

A copy of all claims on appeal, namely claims 1-5 and 7-32 is attached hereto as Appendix A.

V. SUMMARY OF THE INVENTION

A modular server system may be used as part of a carrier-class system. Carrier-class systems are typically used in business-critical applications including telecommunications where system up-time is crucial. In the telecommunications industry, high availability servers are redundant servers that achieve 99.999% up-time. To maintain this up-time, management and monitoring of each module in a modular server system (e.g., server blades and media blades) is important to ensure reliability.

Although the scope of Appellant's invention is not limited in this respect, in one embodiment of Appellant's invention, the heart of modular server system (e.g. modular server system 100) is the midplane (e.g., midplane 170). The midplane has a plurality of blade interfaces (e.g. blade interfaces 420) that provide a common interconnect for all modules connected thereto. The blade interfaces are in electrical communication with each other and with a system management bus of the midplane. See page 4, lines 4-14 of Appellant's specification.

In an example embodiment, a module (e.g., server blade 500) coupled to a blade interface incorporates a system management bus. This server blade system management bus may be in communication with a midplane system management bus to give the server blade access to system-wide monitoring and alarming functions. These functions may enable the server blade to monitor the midplane and other modules (e.g., server blades 110 and media blades 150) connected to the midplane. For example, the server blade may monitor on-board operating voltages and temperatures of other modules and may "trip" alarms if thresholds are exceeded, although the scope of Appellant's invention is not limited to this example. See page 9, lines 1-8 of Appellant's specification.

VI. ISSUES PRESENTED

- A. Whether claims 1-4, 7-13, 15-20 and 22-32 are unpatentable under 35 U.S.C. § 102(e) over Jackson et al. (U.S. Patent 6,452,809, hereinafter “Jackson”).
- B. Whether claims 5, 14 and 21 are unpatentable under 35 U.S.C. § 103(a) over Jackson in view of the CompactPCI or cPCI board/form factor.

VII. GROUPING OF CLAIMS

For the purposes of this appeal:

Claims 1-5 and 7-32 stand or fall together.

VIII. ARGUMENT

A. REJECTION OF CLAIMS 1-4, 7-13, 15-20, 22-29 UNDER 35 U.S.C. § 102(e) IN VIEW OF JACKSON ET AL. DOES NOT EXPRESSLY OR INHERENTLY SHOW “A MIDPLANE HAVING A SYSTEM MANAGEMENT BUS”

The Final Office Action rejects claims 1-4, 7-13, 15-20, 22-29 under 35 U.S.C. 102(e) as being anticipated by Jackson et al. Appellant respectfully traverses this rejection in view of the remarks that follow.

Claim 1, as currently amended, states:

A modular server system, comprising:

a midplane having a system management bus and a plurality of blade interfaces on the midplane, wherein the blade interfaces are in electrical communication with each other;....

a server blade..., *the server blade having a server blade system management bus in electrical communication with the system management bus* of the midplane...

Emphasis added.

The Final Office Action provides that the rejected claims do not define any structure that differs from Jackson. In particular the Action states that with regard to claim 1, Jackson discloses a “modular server system, comprising: a midplane (320 for example) having a system management bus...” Appellant respectfully disagrees.

As is well-established, to make a *prima facie* case of anticipation, “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). In the present case, Appellant respectfully submits that the Final Office Action fails to point to where Jackson expressly or inherently discloses a system management bus on a midplane and that Jackson indeed fails to expressly or inherently disclose such a system management bus on a midplane.

To the extent that through plane (130), whether or not combined with midplane sub-frame (320), could be construed as a midplane as recited in claim 1, which Appellant does not concede, Jackson nevertheless fails to disclose a midplane having a system management bus. The Final Office Action alleges, “it is clear at least from Figs. 15 and 16 of Jackson et al., that when the through plane (130) is attached to the midplane (320) a system management bus is established and supported by midplane (320).” See Final Office Action, page 6. Appellant respectfully disagrees.

Jackson discloses a metal midplane sub-frame (320) that mechanically attaches to a sub-chassis (129). See column 12, lines 45-50. This midplane sub-frame (320), as illustrated in Fig. 16, merely serves as a skeletal structure to receive and house engine blades (132) and peripheral cards (e.g., interface card (134)) in apertures (312). Jackson also describes a through plane (130) that is mounted to midplane sub-frame (320) and contains connectors (302). Jackson discloses only that the through plane (130) connectors contain connections to enable an engine blade to “share common peripherals such as a console or boot drives” or “allow an operator to directly connect a dedicated peripheral to a particular engine blade.” See column 11, line 48 – column 12, line 6.

Appellant respectfully submits that Jackson does not disclose that a system management bus is established when through plane (130) is attached to midplane sub-frame (320). Further, Jackson fails to disclose that engine blades (132) include a system management bus. Necessarily then, Jackson does not disclose that the through plane (130) when attached to midplane sub-frame (320) is in electrical communication with an engine blade system management bus. Accordingly, Jackson does not disclose the cited claim 1 elements of a server blade system management bus in electrical communication with the system management bus of the midplane.

Furthermore, Appellants respectfully assert that Jackson fails to disclose system management functionality in which, for example, engine blades have a system management bus to manage peripherals via a midplane system management bus. As mentioned above, Jackson describes through plane (130) connectors to enable engine blades to share or directly connect to dedicated peripherals. Appellants respectfully submit that merely sharing and directly connecting to peripherals does not disclose system management functionality (e.g., engine blades monitoring operation voltages and/or temperatures of peripherals). Therefore, Appellant respectfully disagrees with the Final Office Action's statement that Figs. 15 and 16 clearly disclose that when through plane (130) is attached to midplane sub-frame (320) a system management bus is established and supported by midplane sub-frame (320).

Appellant respectfully asserts that the Final Office Action has not established a *prima facie* case of anticipation to support the rejection of claim 1 under 35 U.S.C. § 102(e). Accordingly, for at least the foregoing reasons, Appellant traverses the Final Office Action's rejection of claim 1.

Independent claims 12 and 19 also include similar elements to claim 1. In particular, claims 12 and 19 contain the element of a "midplane having a system management bus." Claims 12 and 19 are patentable over the cited reference for at least the same reasons as those presented for claim 1. Accordingly, Appellant traverses the Final Office Action's rejection of claims 12 and 19.

Appellant notes that claims 2-4, 7-11, 13, 15-18, 20 and 22-29 each depend from one of patentable base claims 1, 12 or 19. As a result, in addition to any independent bases for patentability,

Appellant respectfully submits that claims 2-4, 7-11, 13, 15-18, 20 and 22-29 are patentable over the cited reference by virtue of at least this dependence. See *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Thus, Appellant also traverses the Final Office Action's rejection of these claims.

As mentioned in Section III of this Appeal, claims 30-32 were not properly acknowledged by the Examiner and hence not rejected. Appellant also stated in Section III that Appellant assumes that if claims 30-32 were properly acknowledged they may have been rejected under 35 U.S.C. § 102(e) as being anticipated by Jackson based on the same grounds as provided for claims 1-4, 7-13, 15-20 and 22-29. Appellant respectfully submits that independent claim 30 also includes the element of a "midplane having a system management bus." Thus, claim 30 is also patentable over the cited reference for at least the same reasons as those presented for claim 1.

Appellant notes that claims 31 and 32 depend from patentable base claim 30. As a result, in addition to any independent bases for patentability, Appellant respectfully submits that claims 31 and 32 are patentable over the cited reference by virtue of at least this dependence.

B. REJECTION OF CLAIMS 5, 12 AND 21 UNDER 35 U.S.C. § 103(a) IN VIEW OF JACKSON ET AL. AND THE COMPACTPCI FORM FACTOR. THE COMBINATION DOES NOT TEACH OR SUGGEST THE CLAIM LIMITATIONS DIRECTED TO "A MIDPLANE HAVING A SYSTEM MANAGEMENT BUS."

The Final Office Action rejects claims 5, 14 and 21 under 35 U.S.C. 103(a) as being unpatentable over Jackson in view of the CompactPCI or cPCI board/form factor. Appellant respectfully traverses this rejection in view of the remarks that follow.

To establish a *prima facie* case of obviousness the cited references must teach or suggest all claim limitations. See *In re Royka*, 490 F.2d 981 (CCPA 1974). Claims 5, 14, and 21 depend from patentable base claims 1, 12 and 19, respectively. As stated in Argument A of this Appeal, claims 1, 12 and 19 include the common element of a "midplane having a system management bus." It is also stated

in Argument A that Jackson does not expressly or inherently disclose this common element. Further, the Final Office Action did not cite the CompactPCI or cPCI board/form factor to cure the failure of Jackson to teach or suggest this common element. Accordingly, the Final Office Action fails to establish a *prima facie* case of obviousness for a “midplane having a system management bus.”

As stated above, claims 5, 14, and 21 depend from patentable base claims 1, 12 and 19, respectively. As a result, in addition to any independent bases for patentability, Appellant respectfully submits that claims 5, 14, and 21 are patentable over the cited references by virtue of at least this dependence. See *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Therefore, for at least the foregoing reasons, Appellant traverses the Final Office Action’s rejection of claims 5, 14 and 21 under 35 U.S.C. § 103(a).

IX. CONCLUSION

Appellant respectfully submits that all the pending claims in this patent application are patentable and request that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

This brief is submitted, along with a check for \$500.00 to cover the appeal fee for one other than a small entity as specified in 37 C.F.R. § 1.17(c). Please charge any shortages and credit any overcharges to Deposit Account No. 02-2666.

Respectfully submitted,

Date: _____

1/14/05



Gregory D. Caldwell

Attorney for Appellant

Registration Number: 39,926

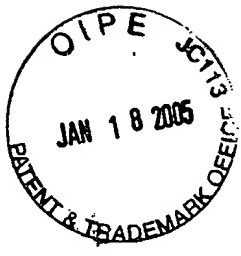
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X. APPENDIX A: CLAIMS ON APPEAL

1

1. (Previously Presented) A modular server system, comprising:

a midplane having a system management bus and a plurality of blade interfaces on the midplane, wherein the blade interfaces are in electrical communication with each other;

a server blade inserted into one of the plurality of blade interfaces on the midplane, the server blade having a server blade system management bus in electrical communication with the system management bus of the midplane, and a network interface to connect to a network; and

a media blade inserted into one of the plurality of blade interfaces on the midplane, the media blade having at least one media device.

2. (Previously Presented) The system according to claim 1, further including a power supply module inserted into the midplane to provide power to the modular server system.

3. (Previously Presented) The system according to claim 1, further including a cooling fan module coupled to the modular server system to cool the modular server system.

4. (Previously Presented) The system according to claim 1, further including at least one switch blade inserted into the midplane adapted to perform network switching.

5. (Original) The system according to claim 1, wherein the midplane is a CompactPCI form factor.

6. (Canceled).

7. (Original) The system according to claim 1, further including a chassis to house the midplane, the server blade, and the media blade.

8. (Original) The system according to claim 1, wherein the server blade and the media blade are adapted to be hot swapped.

9. (Original) The system according to claim 1, wherein the server blade and the media blade in combination form an individual server system.

10. (Original) The system according to claim 1, wherein the network interface is an Ethernet connector jack.

11. (Original) The system according to claim 1, wherein the media device is selected from the group consisting of a storage medium device, a graphics processing device, an audio processing device, and a streaming media processing device.

12. (Previously Presented) A modular server system, comprising:

a midplane having a system management bus, a first side, a second side, and a plurality of blade interfaces on the first side and the second side, wherein the blade interfaces on the first side are in electrical communication with the blade interfaces on the second side;

a plurality of server blades each inserted into one of the plurality of blade interfaces on the first side of the midplane, the server blades each having a server blade system management bus in electrical communication with the system management bus of the midplane, and a network interface to connect to a network;

a plurality of media blades each inserted into one of the plurality of blade interfaces on the second side of the midplane, the media blades each having at least one storage medium device;

a power supply module inserted into the midplane to provide power to the modular server system;

a cooling fan module coupled to the modular server system to cool the modular server system; and

a chassis to house the midplane, the server blades, the media blades, the power supply module, and the cooling fan module.

13. (Previously Presented) The system according to claim 12, further including at least one switch blade inserted into the midplane adapted to perform network switching between any number of the server blades installed in the system.

14. (Original) The system according to claim 12, wherein the midplane is a CompactPCI form factor.

15. (Original) The system according to claim 12, wherein the storage medium device is a hard disk drive.

16. (Original) The system according to claim 12, wherein the server blades and the media blades are adapted to be hot swapped.

17. (Original) The system according to claim 12, wherein at least one of the server blades and at least one of the media blades in combination form an individual server system.

18. (Original) The system according to claim 12, wherein the network interface is an Ethernet connector jack.

19. (Previously Presented) A modular server system, comprising:

a midplane having a system management bus, a first side, a second side, and a plurality of blade interfaces on the first side and the second side, wherein the blade interfaces on the first side are in electrical communication with the blade interfaces on the second side;

a server blade inserted into one of the plurality of blade interfaces on the first side of the midplane, the server blade having a server blade system management bus in electrical communication with the system management bus of the midplane, and a network interface to connect to a network;

a media blade inserted into one of the plurality of blade interfaces on the second side of the midplane, the media blade having at least one storage medium device;

a second server blade inserted into one of the plurality of blade interfaces on the first side of the midplane, the second server blade having a second server blade system management bus in electrical communication with the system management bus of the midplane, and a second network interface to connect to the network

a second media blade inserted into one of the plurality of blade interfaces on the second side of the midplane, the second media blade having at least one second storage medium device;

a power supply module inserted into the midplane to provide power to the modular server system;

a cooling fan module coupled to the modular server system to cool the modular server system; and

a chassis to house the midplane, the server blade, the media blade, the second server blade, the second media blade, the power supply module, and the cooling fan module, wherein the server blade, the media blade, the second server blade, and the second media blade share power from the power supply module and share cooling from the cooling fan module.

20. (Previously Presented) The system according to claim 19, further including at least two switch blades each inserted into the midplane adapted to perform network switching.

21. (Original) The system according to claim 19, wherein the midplane is a CompactPCI form factor.

22. (Original) The system according to claim 19, wherein the storage medium device and the second storage medium device are hard disk drives.

23. (Original) The system according to claim 19, wherein the server blade, the media blade, the second server blade, and the second media blade are adapted to be hot swapped.

24. (Original) The system according to claim 19, wherein the server blade and the media blade in combination form an individual server system.

25. (Original) The system according to claim 19, wherein the second server blade and the second media blade in combination form an individual server system.

26. (Original) The system according to claim 19, wherein the server blade, the second server blade, and the media blade in combination form two individual server systems.

27. (Original) The system according to claim 19, wherein the server blade, the media blade, and the second media blade in combination form an individual server system.

28. (Original) The system according to claim 19, wherein the network interface and the second network interface are Ethernet connector jacks.

29. (Previously Presented) The system according to claim 11, wherein the storage medium device is a hard disk drive.

30. (Previously Presented) A modular server system, comprising:

a midplane including a system management bus and a plurality of blade slots, wherein the blade slots receive and couple blades in communication with each other; and

a slot from among the plurality of blade slots, the slot adapted to receive a server blade including a system management bus, and to couple the server blade system management bus in communication with the midplane system management bus.

31. (Previously Presented) The system according to claim 30, wherein the plurality of blades slots are adapted to hot swap blades.

32. (Previously Presented) The system according to claim 30 further comprising:

another slot from among the plurality of blade slots to receive a media blade having at least one media device, wherein the other slot is adapted to couple in communication the media blade to a server blade to form an individual server system.